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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,536	12/29/1999	QINGYU ZENG	24707A	2359
22889	7590	02/14/2006	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 02/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/474,536

Applicant(s)

ZENG ET AL

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9,11,15-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9,11,15-18 and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed November 29, 2005 have been fully considered but they are not persuasive.

a. With regards to the rejections of claims under 35 USC §112, first paragraph as containing new matter (particularly, referring to the claimed limitations “*including primary fibers free of melt-blown fiber...*” Applicants arguments cite *In re Johnson*, 558 F.2e 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) indicating that if applicant was “in possession” of the entire **genus** of “primary fibers” as of the filing date, it simply cannot be the case that it was not in possession of the narrower, subgenus of primary fibers made of polymer, but not melt-blown. Applicants argue that the concept of utilizing “primary fibers substantially free of melt-blown fibers” is clear in the disclosure since various types of “primary” fibers are disclosed.

It is noted herein that the present disclosure as filed recites that “the primary fibers 16 can be any type of fibers suitable for providing good structural qualities as well as good acoustical and thermal properties. Preferred fibers for use as the primary fibers 16 are polymer fibers... A preferred type of primary fibers for use with the invention is made of polyethylene terephthalate (PET) fibers.” (Refer to [0019] of Patent Application Publication US 2002/0160682 A1) It is the Examiner's position that the written description fails to adequately describe what are “any type of fibers” and would not “reasonably lead” those skilled in the art to the particular exclusion of melt-blown fibers since the disclosure fails to define or describe what are suitable fibers for the invention.

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It is noted that the disclosure does not support through express, implicit or inherent disclosure that “any type of fibers” forming the “primary fibers” excludes melt-blown fibers. Further, contrary to Applicant’s arguments it is noted herein that a “a subgenus is not necessarily described by a genus encompassing it and a species upon which it reads”, see *In re Smith*, 458 F.2d 1389, 1395, 173 USPQ 679, 383 (CCPA 1972).

b. With regards to arguments over the 35 USC 112, first paragraph indicating the phrase “polymer fibers **other than polypropylene**” is new matter. It is noted herein that the while the specification identifies polyethylene terephthalate fibers as a preferred type of primary fiber. The Examiner agrees that PET fibers are polymer fibers other than polypropylene; however, the specification discloses the use of polymer fibers that encompasses a vast list of materials. It is the Examiner’s position that the disclosure of using polyethylene terephthalate, as a preferred material does not constitute an adequate written description for the exclusion of every other material encompassed by the term “polymer material”. It is the Examiner’s position that the disclosure of a preferred embodiment (polyethylene terephthalate) would not “reasonably lead” those skilled in the art to the exclusion of a particular species (i.e. polypropylene), encompassed by the term “polymer material” since the exclusion of polypropylene is not expressly, implicitly or inherently supported by the disclosure. The aspect of exclusion for the use of polypropylene fibers has not been described with sufficient particularity such that one skilled in the art would recognize that the applicant had possession of the claimed invention.

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2. Applicant's arguments with respect to the rejection of the claims over the prior art of SWAN et al. have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 22 and 24 are rejected under 35 U.S.C. 112, first paragraph, as containing matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase “in which the primary fibers are polymer fibers **other than polypropylene**” is new matter, because there is not expressed support for the negative limitation in the specification. *Ex Parte Grasselli*, 231 USPQ 393. Further, as stated above, the disclosure of a preferred embodiment (polyethylene terephthalate) would not “reasonably lead” those skilled in the art to the exclusion of a particular species (i.e. polypropylene), encompassed by the term “polymer material” since the exclusion of polypropylene is not expressly, implicitly or inherently supported by the disclosure. The aspect of exclusion for the use of polypropylene fibers has not been described with sufficient particularity such that one skilled in the art would recognize that the applicant had possession of the claimed invention.

5. Claims 21-22, 1-9, 11, 15-18, 20, 23 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

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had possession of the claimed invention. Independent claims 21, 15 and 23 claim “primary fibers free of melt-blown fibers”, this is rejected herein as being new matter. As stated above, it is the Examiner’s position that the written description fails to adequately describe what are “any type of fibers” and would not “reasonably lead” those skilled in the art to the particular exclusion of melt-blown fibers since the disclosure fails to define or describe what are suitable fibers for the invention. It is noted that the disclosure does not support through express, implicit or inherent disclosure that “any type of fibers” forming the “primary fibers” excludes melt-blown fibers.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 21-22, 1-9, 11, 15-18, 20, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over NAGATA et al. (US 6,165,921).

NAGATA et al. relates to a fibrous acoustical material for reducing noise transmission. The fibrous acoustical material comprises first, second and third fibers. (Abstract) The first, second and third fibers may each be made of a fiber-forming thermoplastic polymer or a mixture of at least two of such polymers. Each of these fibers may be a fiber prepared by spinning at least two components made of such polymers. Examples of the fiber-forming thermoplastic polymer are homopolyester, copolyester, homopolyamide, copolyamide, and polyolefin, among others. (Col. 2, lines 61-66) The reference teaches that it is particularly preferable to use

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polyester-based fibers for the first, second and third fibers, in view of being high in melting point of crystal, in strength and in modulus and being relatively cheap in price and being stable in commercial availability. The reference teaches sheath-core fibers and the use of polyethylene terephthalate as the fiber-forming polyester. (Col. 3, lines 3-55)

The Examiner equates the first fibers (Col. 3, lines 19-44) of NAGATA to the presently claimed primary fibers, and the claimed multicomponent fibers to the second fibers of the reference (Col. 3, lines 45-55)

While NAGATA's invention relates to a fibrous acoustical material for reducing noise transmission, such as automotive floor insulator and automotive trunk insulating carpet; the reference is silent to the presently claimed facing material and flange portions.

SWAN et al. discloses an acoustical insulation web laminate designed for use in a motorized vehicle that comprises: a) a nonwoven acoustical insulation web 15 b) a second layer, laminated to the acoustical insulation web to form the laminate, wherein portions of the acoustical insulation web and the second layer can be thermally consolidated to form reduced thickness areas which are of a thin gauge relative to other portions of the laminate. (Column 3, lines 36-45)

The reference further teaches that the thickness of the acoustical insulation web is in the range of about 0.5 cm to about 15 cm, preferably is at least about 2 cm, more preferably at least about 7 cm. (Column 5, lines 23-25) On Figure 4, the reference shows the laminate including a water barrier layer such as a planar thermoplastic film 14 formed of a relatively thin thermoplastic material such as polypropylene. (Column 5, lines 63-67 thru Column 6, lines 1-2). The thickness of the film 14 is in the range of between about 20 microns to about 250 microns.

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(Column 6, lines 6-9). The reference further teaches that the laminate 10 is typically pressure molded in a heated die to form reduced thickness areas 17 along its outer periphery 16, of approximately 508 microns (0.0508 cm) in thickness. The reduced thickness areas 17 promote the integrity of the laminate 10 in those areas and permit the laminate 10 to be easily handled by vehicle manufacturers during assembly operations. (Column 6, lines 35-47) The reduced thickness areas 17 of the SWAN et al. reference are equated to the presently claimed densified perimeter flange. It is further noted herein SWAN reference teaches the use of reduced thickness areas ("flanges") with a thickness less than about 15 percent of the thickness of the web ("blanket"). (Refer to previous office actions)

With regards to claims 6-7 and 16-17, SWAN et al. further teaches that the laminate 10 can include an optional scrim layer secured to the web opposite the film. The reference teaches that the optional scrim layer increases the integrity of the laminate. The reference further teaches that a second optional scrim layer can be secured between the film and the web. (Column 6, lines 14-34) Therefore, when the second optional scrim layer is secured between the film and the web, this embodiment will provide the claimed facing material comprising a scrim and a film.

Since both references are directed to acoustical material for use in automotive applications, the purpose disclosed by SWAN et al. would have been recognized in the pertinent art of NAGATA et al. It is noted herein that the references are analogous art and that the NAGATA et al. provide all the structural limitations of the claimed blanket of polymer fibers and that SWAN et al. provides motivation for the lamination of such blanket to second layer and for the provision of areas of reduced thickness (equated to the claimed flanges).

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It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the acoustical material of NAGATA et al. and provide it with a facing layer and reduced thickness with the motivation of increasing the integrity of the material and promote the integrity of the laminate in those areas with reduced thickness and permit the laminate 10 to be easily handled by vehicle manufacturers during assembly operations as disclosed by SWAN et al. (Column 6, lines 35-47)

While the prior art of record is silent with respect to the claimed static coefficients of friction, it is reasonable to presume that the claimed static coefficient of friction is inherent to the invention of NAGATA et al. in combination with the teachings of SWAN et al. Support for said presumption is found in the use of the same starting materials (i.e. includes meltable binder fibers in addition to polyester primary fibers in the acoustical web and a liquid barrier thermoplastic film), like processes of making the articles (i.e., pressure molding), and the production of similar end-products (i.e., acoustical insulation, etc...). The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

GARDILL (US 5,614,285)

ANG (US 5,888,616)

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

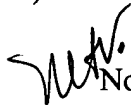
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Norca L. Torres-Velazquez
Primary Examiner
Art Unit 1771

February 8, 2006